

To: Subcommittee on Workforce and Other Affordable Housing
Date: September 22, 2003
Re: Materials for your review prior to our meeting on September 26th

Please find the following below:

- I. List of barriers to the development of affordable housing, both:
 1. those identified in LD 472
 2. other barriers commonly identified.
- II. Request for lessons learned
- III. Overview of need for subsidized housing units by labor markets and subpopulations [data from Maine State Housing Authority]; will need to gather similar data identifying housing units needed by low to moderate income workforce populations.

Please review these materials for the purpose of:

- (a) identifying omissions and/or corrections, qualifiers, elaborations
- (b) specifying barriers by region to the extent that is useful – i.e., using high and low demand housing markets, labor markets or other designations useful to our purpose;
- (c) prioritizing which barriers to address, and in what order.

If after reviewing these materials, you are able to forward comments to us prior to the September 26th meeting in response to (a), (b) or (c) above, please do so via either email [maegleason@aol.com] or fax [287-8059]. Otherwise, please come to the meeting on the 26th prepared to share your comments, both orally and in writing to help insure that all ideas are included in our products. If you are able to forward them to us prior to the meeting, we will incorporate them into a document for distribution on the 26th. Thanks.

I. List of barriers to the development and availability of affordable housing:

Those identified in LD 472:

[Note: several bills before the Legislature were folded into LD472, so some of these barriers may be repetitive.]

1. State rules that inhibit the construction of new affordable housing units, or the renovation of existing buildings.
Need to identify what specific state rules inhibit the advancement of affordable housing.
2. Local regulations that inhibit the construction of new affordable housing units, or the renovation of existing buildings.
Need to identify as specifically as we can what local regulations inhibit the advancement of affordable housing, and where that is occurring, by, for instance, labor markets.
3. Zoning or zoning practices that create barriers.
Need to identify as specifically as we can what and where zoning or zoning practices inhibit the advancement of affordable housing.
4. Laws pertaining to municipal impact fees, as allowed under Title 30-A, section 4354 [attached FYI].
5. Laws pertaining to municipal moratoria on development permits, as allowed under Title 30-A, section 4356 [attached].
6. Laws pertaining to municipal rate of growth ordinances, as allowed under Title 30-A, section 4314 [attached].
Need to identify where residential growth ordinances are in place, broken down by county [except for York, which has been done, and is attached].

7. Barriers to the creation of affordable rental housing, including the unavailability of deposit assistance, in areas of the State where rental housing is unaffordable;

8. Barriers to the construction or availability of affordable housing for:

- a. Veterans
- b. Seniors
- c. Retirees
- d. Persons with disabilities
- e. Homeless persons

Need to identify as specifically as we can the barriers unique to each of the identified subpopulations.

9. Other barriers to the construction or availability of affordable housing identified by members of this subcommittee.

Please bring forward specific barriers you know exist in the state, and have not been identified in Sections A or B.

B. Other common barriers:

Need to flesh out these barriers.

1. Land use regulations, i.e., minimum lot size, minimum setbacks, designated growth areas, requirements for off-street parking, open space, and with rehab, change of use, mixed use, etc.
2. Infrastructure costs – access to water, sewer, roads
3. Cost and limitation of buildable land
4. Development costs/fees – legal, layered financing, engineering, environmental studies, architectural drawings, impact fees
5. Limitations on accessory dwellings
6. Density limitations
7. Permanent affordability issues
8. Desire for status quo at the community level
9. Limited capacity to review development plans
10. Requirements/costs regarding rehab of historic buildings
11. Conflicting regulations – i.e., between building and fire codes
12. Zoning ordinances that are decades old and have only undergone piecemeal revisions
13. Lack of access to services for special needs populations

II. Lessons learned/insights gained:

Identify what are the lessons learned and insights gained from your experience with this issue that can help inform our work. And what, in the end, did work to advance the development of workforce and other affordable housing?

Title 30-A, §4354, Impact fees

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§4354. Impact fees

A municipality may enact an ordinance under its home rule authority requiring the construction of off-site capital improvements or the payment of impact fees instead of the construction. Notwithstanding section 3442, subsection 2, an impact fee may be imposed that results in a developer or developers paying the entire cost of an infrastructure improvement. A municipality may impose an impact fee either before or after completing the infrastructure improvement. [1991, c. 722, §8 (rpr); §11 (aff).]

1. Construction or fees may be required. The requirements may include construction of capital improvements or impact fees instead of capital improvements including the expansion or replacement of existing infrastructure facilities and the construction of new infrastructure facilities. [1999, c. 776, §11 (amd).]

1. Construction or fees may be required.

A. For the purposes of this subsection, infrastructure facilities include, but are not limited to: [1999, c. 776, §11 (amd).]

- (1) Waste water collection and treatment facilities;
- (2) Municipal water facilities;
- (3) Solid waste facilities;
- (4) Public safety equipment and facilities;
- (5) Roads and traffic control devices;
- (6) Parks and other open space or recreational areas; and
- (7) School facilities.

[1999, c. 776, §11 (amd).] [1999, c. 776, §11 (amd).]

2. Restrictions. Any ordinance that imposes or provides for the imposition of impact fees must meet the following requirements. [1991, c. 18, §2 (amd).]

2. Restrictions.

A. The amount of the fee must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development or, if the improvements were constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development. [1991, c. 18, §3 (amd).]

[1991, c. 18, §3 (amd).] [1991, c. 18, §2 (amd).]

B. Funds received from impact fees must be segregated from the municipality's general revenues. The municipality shall expend the funds solely for the purposes for which they were collected. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).] [1991, c. 18, §2 (amd).]

C. The ordinance must establish a reasonable schedule under which the municipality is required to use the funds in a manner consistent with the capital investment component of the comprehensive plan. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).] [1991, c. 18, §2 (amd).]

D. The ordinance must establish a mechanism by which the municipality shall refund impact fees, or that portion of impact fees, actually paid that exceed the municipality's actual costs or that were not expended according to the schedule under this subsection. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 562, §17 (amd).]

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 562, §17 (amd).]
[1991, c. 18, §2 (amd).]

E. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 562, §18 (rp).]

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 562, §18 (rp).]
[1991, c. 18, §2 (amd).]

3. Deposit fees in trust fund. Municipalities that are part of a school administrative district or other single or multicommunity school district may deposit collected impact fees in a trust fund to be used to pay their proportionate share of anticipated school capital costs. [2001, c. 38, §1 (new).]

PL 1989, Ch. 104, §A45,C10 (NEW).

PL 1989, Ch. 562, §16-18 (AMD).

PL 1991, Ch. 18, §2,3 (AMD).

PL 1991, Ch. 236, §2 (AMD).

PL 1991, Ch. 722, §11 (AFF).

PL 1991, Ch. 722, §8 (AMD).

PL 1999, Ch. 776, §11 (AMD).

PL 2001, Ch. 38, §1 (AMD).

Title 30-A, §4356, Moratoria

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§4356. Moratoria

Any moratorium adopted by a municipality on the processing or issuance of development permits or licenses must meet the following requirements. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

1. Necessity. The moratorium must be needed: [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

1. Necessity.

A. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).] [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

B. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent serious public harm from residential, commercial or industrial development in the affected geographic area. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).] [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

2. Definite term. The moratorium must be of a definite term of not more than 180 days. The moratorium may be extended for additional 180-day periods if the municipality adopting the moratorium finds that: [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

2. Definite term.

A. The problem giving rise to the need for the moratorium still exists; and [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).] [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

B. Reasonable progress is being made to alleviate the problem giving rise to the need for the moratorium. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).] [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

3. Extension by selectmen. In municipalities where the municipal legislative body is the town meeting, the selectmen may extend the moratorium in compliance with subsection 2 after notice and hearing. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

PL 1989, Ch. 104, §A45,C10 (NEW).

Title 30-A, §4314, Transition; savings clause

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§4314. Transition; savings clause

1. Comprehensive plan. A municipal comprehensive plan adopted or amended by a municipality under former Title 30, chapter 239, subchapter V or VI remains in effect until amended or repealed in accordance with this subchapter. [2001, c. 406, §3 (amd).]

2. Shoreland zoning ordinances. Notwithstanding section 4352, subsection 2, any portion of a zoning ordinance that regulates land use beyond the area required by Title 38, chapter 3, subchapter I, article 2-B and that is not consistent with a comprehensive plan adopted under this subchapter is no longer in effect 24 months after adoption of the plan. [2001, c. 406, §3 (amd).]

3. Rate of growth, zoning and impact fee ordinances. After January 1, 2003, any portion of a municipality's or multimunicipal region's rate of growth, zoning or impact fee ordinance must be consistent with a comprehensive plan adopted under this subchapter. The portion of a rate of growth, zoning or impact fee ordinance that is not consistent with a comprehensive plan is no longer in effect unless: [2001, c. 578, §10 (amd).]

3. Rate of growth, zoning and impact fee ordinances.

A. [2001, c. 406, §3 (rp).]

[2001, c. 406, §3 (rp).] [2001, c. 578, §10 (amd).]

B. [2001, c. 406, §3 (rp).]

[2001, c. 406, §3 (rp).] [2001, c. 578, §10 (amd).]

C. The ordinance or portion of the ordinance is exempted under subsection 2; [2001, c. 406, §3 (new).]

[2001, c. 406, §3 (new).] [2001, c. 578, §10 (amd).]

D. The municipality or multimunicipal region is under contract with the office to prepare a comprehensive plan or implementation program, in which case the ordinance or portion of the ordinance remains valid for up to 4 years after receipt of the first installment of its first planning assistance grant or for up to 2 years after receipt of the first installment of its first implementation assistance grant, whichever is earlier; [2001, c. 578, §10 (amd).]

[2001, c. 578, §10 (amd).] [2001, c. 578, §10 (amd).]

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted under this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment; or [2001, c. 406, §3 (new).]

[2001, c. 406, §3 (new).] [2001, c. 578, §10 (amd).]

F. The municipality or multimunicipal region applied for and was denied financial assistance for its first planning assistance or implementation assistance grant under this subchapter due to lack of state funds on or before January 1, 2003. If the office subsequently offers the municipality or multimunicipal region its first planning assistance or implementation assistance grant, the municipality or multimunicipal region has up to one year to contract with the office to prepare a comprehensive plan or implementation program, in which case the municipality's or multimunicipal region's ordinances will be subject to paragraph D. [2001, c. 578, §10 (amd).]

[2001, c. 578, §10 (amd).] [2001, c. 578, §10 (amd).]

4. Encumbered balances at year-end. At the end of each fiscal year, all encumbered balances accounts for financial assistance and regional planning grants may be carried twice. [1991, c. 722, §6 (new); §11 (aff).]

PL 1991, Ch. 722, §11 (AFF).

PL 1991, Ch. 722, §6 (NEW).

PL 1993, Ch. 73, §1 (AMD).

PL 1993, Ch. 166, §4 (AMD).

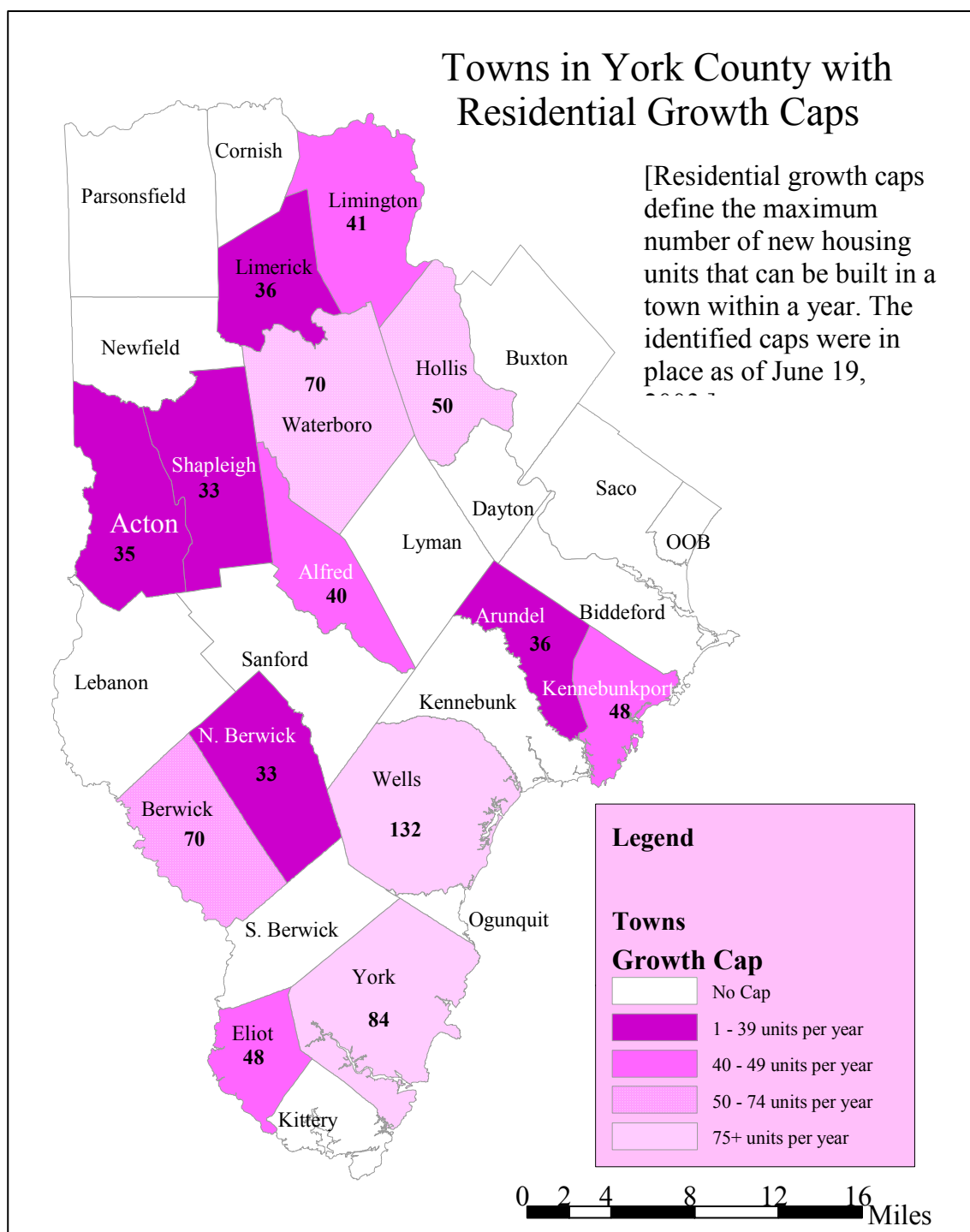
PL 1993, Ch. 721, §A1 (AMD).

PL 1993, Ch. 721, §H1 (AFF).

PL 2001, Ch. 406, §3 (AMD).

PL 2001, Ch. 578, §10 (AMD).

Unmet Need for Subsidized Units in 2002 by Labor Markets and Subpopulations														
Families with Children							Seniors							Workforce Renters
Labor Market Area	# Subsidized Units for Families with Children	# of Families in Need	Unmet Need	% Unmet Need	Non-Project Based	Project Based	# Subsidized Units for Seniors	# of Seniors in Need	Unmet Need	% Unmet Need	Non-Project Based	Project Based	Population Age 15 - 34 with Annual Incomes of <50% of the Area Median Income	
Augusta	1498	2372	874	36.9%	699	799	673	992	319	32.2%	88	585		
Bangor	2567	3353	786	23.4%	915	1652	1250	1298	48	3.7%	246	1004		
Bath/Brunswick	1146	2005	859	42.8%	521	625	765	926	161	17.4%	227	538		
Belfast	252	558	306	54.9%	64	188	162	223	61	27.4%	16	146		
Biddeford	999	2278	1279	56.1%	371	628	692	1084	392	36.2%	99	593		
Boothbay Harbor	125	298	173	58.1%	39	86	101	154	53	34.6%	8	93		
Bucksport	218	224	6	2.6%	70	148	42	98	56	57.2%	17	25		
Calais	81	270	189	70.0%	36	45	206	164	-42	0.0%	3	203		
Dexter/Pittsfield	232	428	196	45.8%	63	169	258	220	-38	0.0%	8	250		
Dover-Foxcroft	182	261	79	30.3%	36	146	221	136	-85	0.0%	6	215		
Ellsworth/Bar Harbor	315	890	575	64.6%	167	148	573	461	-112	0.0%	115	458		
Farmington	423	929	506	54.5%	162	261	445	379	-66	0.0%	14	431		
Fort Kent	167	156	-11	0.0%	66	101	179	117	-62	0.0%	15	164		
Greenville	22	54	32	59.4%	2	20	69	38	-31	0.0%	1	68		
Houlton	196	259	63	24.4%	140	56	291	191	-100	0.0%	28	263		
Jonesport/Milbridge	60	138	78	56.4%	30	30	150	61	-89	0.0%	0	150		
Kittery/York	237	859	622	72.4%	101	136	230	401	171	42.6%	13	217		
Lewiston/Auburn	2556	3454	898	26.0%	1078	1478	1530	1814	284	15.7%	348	1182		
Lincoln/Howland	95	211	116	54.9%	39	56	147	106	-41	0.0%	4	143		
Machias/Eastport	195	327	132	40.4%	36	159	307	171	-136	0.0%	5	302		
Madawaska	49	189	140	74.1%	37	12	196	125	-71	0.0%	12	184		
Millinocket/East Millinocket	80	227	147	64.7%	38	42	208	148	-60	0.0%	3	205		
Norway/Paris	321	471	150	31.9%	125	196	356	251	-105	0.0%	9	347		
Outer Bangor	29	265	236	89.1%	29	0	101	63	-38	0.0%	1	100		
Patten/Island Falls	15	70	55	78.4%	12	3	76	39	-37	0.0%	3	73		
Portland	5935	9503	3568	37.5%	2322	3613	3444	3579	135	3.8%	339	3105		
Presque Isle/Caribou	886	856	-30	0.0%	400	486	784	572	-212	0.0%	92	692		
Rockland	581	1088	507	46.6%	127	454	495	502	7	1.4%	16	479		
Rumford	411	523	112	21.5%	248	163	278	323	45	13.8%	24	254		
Sanford	780	1078	298	27.6%	451	329	380	481	101	21.0%	66	314		
Sebago Lakes Region	176	518	342	66.0%	74	102	195	199	4	2.2%	9	186		
Skowhegan	398	668	270	40.4%	184	214	212	332	120	36.1%	50	162		
Stonington	36	215	179	83.3%	19	17	106	100	-6	0.0%	4	102		
Van Buren	157	79	-78	0.0%	51	106	107	57	-50	0.0%	41	66		
Waterville	888	1441	553	38.4%	593	295	521	767	246	32.1%	149	372		
			14207						823					
Source: Maine State Housing Authority														



Source: Southern Maine Regional Planning Commission